

R381-70-4: LICENSE APPLICATION, RENEWAL, CHANGES, AND VARIANCES

This section describes how to apply for a license, renew a license, change an existing license, and how to request a variance to a specific licensing rule.

License Application

- (1) **An applicant for a new license shall submit to the Department:**
- (a) **an online application;**
 - (b) **a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;**
 - (c) **a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;**
 - (d) **a copy of a current local business license or a statement from the city that a business license is not required;**
 - (e) **a copy of the educational credentials of the person who will be the director as required in R381-70-7(4);**
 - (f) **a copy of a completed Department health and safety plan;**
 - (g) **CCL background checks for all covered individuals as required in R381-70-8;**
 - (h) **a current copy of the Department's new provider training certificate of attendance; and**
 - (i) **all required fees, which are nonrefundable.**

Proposed Rule Change

- (h) ~~a current copy of the Department's~~ new provider training ~~certificate of attendance completion no more than six months before the date of the application;~~ and

Rationale / Explanation

The application period is an important phase of licensing. The applicant has the responsibility to demonstrate their ability and willingness to comply with all licensing rules in order to provide safe and healthy care for children. National Center on Early Childhood Quality Assurance. *Research Brief #1: Trends in Child Care Center Licensing Regulations and Policies*. Fairfax, VA. (2015).

Compliance Guidelines

New Provider Training and Support

The applicant should become familiar with licensing rules and take the Department's training for new providers as the first steps in the application process. Specific details on how to apply for an out-of-school-time child care license are explained in this training. An individual may take the training at:

- <https://childcarelicensing.utah.gov/LicensesCertificates.html>, or
- <https://childcarelicensing.utah.gov/Trainings.html>.

CCL keeps a list of those who complete this training. An attendance certificate will be issued upon request.

During the application period, the applicant should create an account through ccl.utah.gov to receive access to their CCL provider portal. The email address used to create this account must

be the email address used as their facility contact information.

Required CCL Forms and Documents

When applying for a child care license, the applicant must submit the following CCL-approved forms:

- An online application found at: <https://childcarelicensing.utah.gov/LicensesCertificates.html>.
- A health and safety plan found at:
<https://childcarelicensing.utah.gov/forms/All/Health%20and%20Safety%20Plan.pdf>.
- A background check form for each covered individual found at:
<https://ccl.utah.gov/ccl/#/background-screening-form>.
 - Each covered individual must pass a CCL background check. Background checks that are run by other organizations do not meet the requirements of this rule.
 - To learn how to request a CCL background check, refer to:
<https://childcarelicensing.utah.gov/BgsHowTo.html> or “Section 8: Background Checks” in this manual.

The child care facility must have a qualified director whose educational credentials meet licensing requirements. The applicant must submit a copy of those credentials to CCL for approval. Refer to “Section 7: Personnel and Training Requirements” for a list of required director qualifications and approved educational credentials.

Business License, Fire and Kitchen Inspections, and Fees

To operate a business in Utah, each applicant needs to obtain a business license from the city where their out-of-school-time facility will be located. Each city sets its own regulations and fees for obtaining a business license. A copy of the license must be submitted to CCL during the application period.

Child care facilities must pass a fire inspection by their local fire authority each year and pass a kitchen inspection by the local county health department every two years. It is advisable for the applicant to schedule these inspections early in the application process in allowing time to make any corrections ordered by the local fire or health department. Fire departments and local health departments generally charge a fee to conduct these inspections.

Utah requires the applicant to pay child care licensing fees. To view CCL's fee schedule, go to: <https://childcarelicensing.utah.gov/forms/All/CCL-Fee%20Schedule.pdf>.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

Rationale / Explanation

Licensing makes an on-site inspection to help each facility achieve and maintain full compliance with licensing rules before issuing a license. *CFOC 3rd ed. Standard 10.4.2.1. p. 409.*

Compliance Guidelines

After the applicant has submitted all required documents and fees to obtain a child care license, CCL will schedule the Pre-License Inspection with the applicant. The applicant must demonstrate compliance with all licensing rules before a license will be issued. To view the Pre-License Inspection checklist, go to: <https://childcarelicensing.utah.gov/Forms.html>.

In order for a child care provider to renew their license, they must pass annual inspections verifying their compliance with licensing rules. Refer to the Introduction section of this manual for more information about annual inspections.

- (3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:
- (a) address numbers and/or letters shall be readable from the street;
 - (b) address numbers and/or letters shall be at least 4 inches in height and ½ inch thick;
 - (c) exit doors shall operate properly and shall be well maintained;
 - (d) obstructions in exits, aisles, corridors, and stairways shall be removed;
 - (e) exit doors shall be unlocked from the inside during business hours;
 - (f) exits shall be clearly identified;
 - (g) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;
 - (h) there shall be working smoke detectors that are properly installed on each level of the building; and
 - (i) boiler, mechanical, and electrical panel rooms shall not be used for storage.

Proposed Rule Change

- (3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall ~~include~~ verify compliance with the following:
- ~~(b) address numbers and/or letters shall be at least 4 inches in height and ½ inch thick;~~
- (g) there shall be at least one unobstructed fire extinguishers on each level of the building that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;
-

Rationale / Explanation

Child care licensing, building, fire safety, and health authorities work together to safeguard children in child care. *CFOC 3rd ed. Standard 10.4.2.4. p. 410.*

Compliance Guidelines

Refer to the following guidelines:

- Address numbers and/or letters must be readable from the street.
- Doors identified as exits must be able to open and close.
- Indoor and outdoor exits may not be blocked.
- Exit doors must be unlocked from the inside or have emergency release devices (such as a push bar or button release) so that they can be opened immediately in an emergency.
- It is required that exits be clearly identified (any sign identifying the exit is acceptable).
- There must be at least one all-purpose fire extinguisher in the facility.
 - Staff should know the location of the fire extinguisher and it should be easily accessible.
 - The fire extinguisher's seals should be intact.
 - The gauge must show that the extinguisher is charged.
- At least one well-maintained (not chirping) smoke detector is required on each level of the building.
- Storage in the boiler, mechanical, and electrical panel rooms may not block the appliance or panel.

Moderate Risk Rule Violation
Corrective Action for 1st Instance
Citation Warning

- (4) If the provider serves food and the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:
- (a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (b) there shall be a working thermometer in the refrigerator;
 - (c) there shall be a working stem thermometer available to check cook and hot hold temperatures;
 - (d) cooks shall have a current food handler's permit available on-site for review by the Department;
 - (e) cooks shall use hair restraints and wear clean outer clothing;
 - (f) according to Food Code 2-103-11, only necessary staff shall be present in the kitchen;
 - (g) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;
 - (h) chemicals shall be stored away from food and food service items;
 - (i) food shall be properly stored, kept to the proper temperature, and in good condition; and
 - (j) there shall be a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

Proposed Rule Change

- (4) If the provider serves food and the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall **include verify** compliance with the following:
-

Rationale / Explanation

Inspectors from state and local agencies with appropriate training should check food service equipment and provide technical assistance to facilities. The local public health department typically conducts such inspections. Local health department regulations for food safety are based on scientific data about the conditions required to prevent contamination of food with infectious or toxic substances that cause foodborne illness. *CFOC 3rd ed. Standard 1.4.5.1. p. 30; Standard 4.8.0.2. p. 186; Standard 4.9.0.1. p. 188.*

Compliance Guidelines

The child care facility must have a kitchen inspection if food for the children is prepared at the facility. A kitchen inspection is not required if 1) all food is brought by parents for their own children, or 2) the food is prepared in another inspected kitchen and then brought to the facility to be served.

The following guidelines apply in the assessment of this rule:

- The refrigerator should be free of a buildup of spills, dirt, and grime.
- The provider should have a stem thermometer for cooking and for keeping food hot.
- Cooks must use hair restraints (any items to keep hair out of the face and off the food).
- Only the cook(s) and anyone who purchases, prepares, or stores the food may be in the kitchen. Children, other staff, and visitors may not be in the kitchen with the exception of inspectors including Child Care Licensing staff. Others may enter the kitchen for brief visits on

- condition that the food, equipment, and utensils are protected.
- Chemicals must be stored at least 3 feet away from food and food service items, or separated by a solid barrier.
- Food should show no signs of spoilage, such as mold or obvious rancid smells.

Moderate Risk Rule Violation

Corrective Action for 1st Instance

Citation Warning

- (5) **If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.**
- (6) **The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or a certificate that was:**
 - (a) closed under an immediate closure;
 - (b) revoked;
 - (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure; or
 - (d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or
 - (e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.
- (7) **Each license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.**

License Renewal

- (8) **Within 30 to 90 days before a current license expires, the provider shall submit for renewal:**
 - (a) an online renewal request,
 - (b) applicable renewal fees,
 - (c) any previous unpaid fees,
 - (d) a copy of a current business license,
 - (e) a copy of a current fire inspection report, and
 - (f) a copy of a current kitchen inspection report.

Compliance Guidelines

Instructions for requesting a license renewal can be found at:

<https://childcarelicensing.utah.gov/forms/All/Online%20Instructions%20-%20Renewal.pdf>.

As part of the license renewal process, the facility must pass an inspection by:

- The local fire authority; or pass an inspection by CCL that verifies compliance with 70-4(3) if the local fire authority states that a fire inspection is not required.
- The local health department; or pass an inspection by CCL that verifies compliance with 70-4(4) if the local health department states that a kitchen inspection is not required.

- (9) **A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.**

Compliance Guidelines

A provider may choose not to renew their child care license or they may voluntarily close their child care facility, pay all pending fees, and relinquish their license at any time. However, all licensing rules must be in compliance and all licensing procedures (such as inspections, background checks, and fees) will continue until the facility closes and the provider no longer cares for children.

- (10) **The Department may not renew a license for a provider who is no longer providing services.**

Compliance Guidelines

The provider's child care license will be closed on the day they are no longer serving children, or if the child care facility is found vacant.

License Changes

- (11) **The provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:**
- (a) a change of the facility's location, or**
 - (b) a change that transfers 50 percent or more ownership or controlling interest to a new individual or entity.**

Compliance Guidelines

If a provider will be changing the location of their out-of-school-time facility, they may begin the application process, but may not care for children at the new location until their new license has been approved.

For a change of location, the provider must submit the following to CCL:

- An online application for a new child care license;
- A copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required for the new facility;
- A copy of a current local health department kitchen clearance or a statement from the local health department that a kitchen inspection is not required for the new facility;
- A copy of a current local business license or a statement from the city that a business license is not required;
- An updated Department health and safety plan form; and
- All required fees, which are nonrefundable.

The following submissions are not required for a change of location:

- CCL background checks if they are current for all covered individuals as required in rule;
- A copy of the director's educational credentials if the director will remain the same; and
- A copy of the Department's new provider training certificate of attendance.

For a change of ownership, the provider must submit an application, documentation, and fees for a new license except the following:

- A copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required for the facility;
- A copy of a current local health department kitchen clearance or a statement from the local health department that a kitchen inspection is not required for the facility; and

- A copy of the director's educational credentials if the director will remain the same.

- (12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:**
- (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where services are provided;**
 - (b) a change in the name of the program;**
 - (c) a change in the regulation category of the program;**
 - (d) a change in the name of the provider;**
 - (e) an addition or loss of a director; or**
 - (f) a change in ownership that does not require a new license.**

Compliance Guidelines

- To apply for a license change, go to:
<https://childcarelicensing.utah.gov/forms/All/Application,%20Changes,%20Home.pdf>.
- If a change of director was unexpected, the provider has 30 days from the former director's last day of work to submit a change application.
- A CCL fee is charged if the provider makes more than 2 license changes per licensing year.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning

- (13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.**
- (14) A license is not assignable or transferable and shall only be amended by the Department.**

Compliance Guidelines

- The provider must operate under their own license issued by the Department.
- The provider must not alter the license in any way or for any reason.

High Risk Rule Violation

Corrective Action for 1st Instance

Citation and CMP Warning

Rule Variances

- (15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.**

Compliance Guidelines

- The provider may submit a variance request online through their Child Care Licensing portal.

- (16) The Department may:**
- (a) require additional information before acting on the variance request, and**
 - (b) impose health and safety requirements as a condition of granting a variance.**

- (17) The provider shall comply with the existing rule until a variance is approved.**

- (18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.**

Compliance Guidelines

- An electronic copy of the variance approval is acceptable as long as it is available on-site for review by parents and CCL staff.

Low Risk Rule Violation

Corrective Action for 1st Instance

Warning

- (19) The Department may grant variances for up to 12 months.**
- (20) The Department may revoke a variance if:**
- (a) the provider is not meeting the intent of the rule as stated in their approved variance;**
 - (b) the provider fails to comply with the conditions of the variance; or**
 - (c) a change in statute, rule, or case law affects the basis for the variance.**